**IN THE UNITED STATES DISTRICT COURT**
**FOR THE WESTERN DISTRICT OF MISSOURI**

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| KATHY PROSOKI-LARGE<br><br>*Plaintiff,*<br>v.<br><br>ST. JOSEPH PLUMBING & HEATING,<br>DOUG BURKETT and<br>DEWAYNE LISTER<br><br>And<br><br>PLUMBERS AND PIPE FITTERS<br>LOCAL 45 and GARY SILVEY, JR.,<br><br>*Defendants.* | ) | Case No.: 5:14-cv-06091-DGK |

**PLAINTIFF'S SUGGESTIONS IN OPPOSITION TO DEFENDANT PLUMBERS AND PIPE FITTERS LOCAL 45'S MOTION TO DISMISS**

Plaintiff, provides the following Memorandum of Law in Opposition to Defendant Local 45's Motion to Dismiss:

**Argument**

Complaints involving claims of employment discrimination (or retaliatory discharge) "need not contain facts establishing a prima facie case of discrimination under *McDonnell Douglas*[1] framework, but instead, must contain only a short plain statement of the claim showing that the pleader is entitled to relief."[2] Additionally, there is no requirement at the pleading stage that a Plaintiff make a showing of probability, supply evidentiary support or provide "detailed factual allegations"; a Plaintiff must merely provide "enough facts to raise a reasonable

[1] 411 U.S. 792 (1973).
[2] *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506 (2002).

expectation that discovery will reveal evidence of illegal [activity]".[3] Furthermore, in *Twombly*, the Court made clear they did not "apply any 'heightened' pleading standard" nor did they overrule *Swierkiewicz* in their decision, stating in part, "[w]e reversed [Swierkiewicz] on the ground that the Court of Appeals had impermissibly applied what amounted to a heightened pleading requirement by insisting that Swierkiewicz allege "specific facts" beyond those necessary to state his claim and the grounds showing entitlement to relief.[4] "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the ***reasonable inference*** that the defendant is liable for the misconduct alleged."[5]

Here, given the facts contained in the complaint and drawing all reasonable inferences in favor of Plaintiff (as is the standard), her complaint creates a reasonable inference that Local 45 engaged in discrimination. In particular, the complaint establishes a reasonable inference that Defendant Local 45 treated Plaintiff less favorably than other male, card carrying union pipefitters.

**Conclusion**

For the reasons stated herein Plaintiff asks this Court to overrule Local 45's Motion to Dismiss in its entirety.

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[3] *Bell Atl. Co. v. Twombly*, 550 U.S. 544, 556 (2007).
[4] *Id.* at 570.
[5] *Ashcroft v. Iqbal*, 129 S. Ct. 1973, 1949 (2009) *citing; Twombly* at 556. *See also*; *e.g.; Rocha v. CCCH Admin*, 2011 WL 167264 (C.A. 10 (Colo.), 2011); *Gallagher v. Shelton*, 587 F.3d 1063, 1068 (10th Cir. 2009); and *Dowuona-Hammond v. Integris Health*, 2011 WL 134923 (W.D. Okla., 2011) (Holding "[w]hen considering a motion to dismiss, courts look to the complaint and those documents attached to or referred to in the complaint, accept as true all allegations contained in the complaint, and draw all reasonable inferences from the pleading in favor of the pleader.").

Respectfully Submitted,
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on October 3, 2014 via the Court's CM/ECF system to:

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